



Patent
Attorney Docket: 032,290-096
(Formerly 412692000901)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

ZARINS et al.

Serial No.: 10/639,050

Filed: August 11, 2003

For: BIOPSY MARKER DELIVERY
SYSTEM

Group Art Unit: 3736

Examiner: Charles A. Marmor II

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The accompanying Form PTO/SB/08a provides a listing of documents that may be relevant to the subject application.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

☐ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the

CERTIFICATE OF MAILING (37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450.

March 2, 2005

Date of Deposit

IR1:1062566.1

Cynthia B. Pacheco
Cynthia B. Pacheco

03/08/2005 EABUBAK1 00000026 502862 10639050

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180.00 DA

mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.
- ☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
- ☒ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.
- ☒ The fee due under 37 CFR § 1.17(p) is submitted herewith.
- ☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
- ☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

Statement Under 37 CFR § 1.97(e):

- ☐ Each item contained in this IDS was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.
- ☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of \$180.00 is enclosed for the above fee(s).
☒ Please charge \$180 to Deposit Account No. 50-2862 for the above fee(s).

In accordance with §1.98(d), copies of some or all of the references listed on the attached Form PTO/SB/08a are not enclosed herewith because they were previously cited by or submitted to the Patent and Trademark Office in prior U.S. Applications 09/954,792, filed September 10, 2001, for which a claim for priority under 35 U.S.C. §120 has been made in the instant application. Accordingly, Applicants will provide duplicate copies in respect of the present case only if the Examiner so desires.

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny & Myers' Deposit Account No. 50-2862.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: March 2, 2005

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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

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of

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Complete if Known

Application Number	10/639,050
Filing Date	August 11, 2003
First Named Inventor	ZARINS et al.
Art Unit	3736
Examiner Name	Charles A. Marmor II
Attorney Docket Number	032,290-096 (formerly 412692000901)

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	AA	us-4,230,123	10-1980	Hawkins, Jr.	
	AB	us-4,699,154	10-1987	Lindgren	
	AC	us-4,890,626	01-1990	Wang	
	AD	us-4,944,308	07-1990	Akerfeldt	
	AE	us-4,953,558	09-1990	Akerfeldt	
	AF	us-5,092,870	03-1992	Mittermeier	
	AG	us-5,108,421	04-1992	Fowler	
	AH	us-5,197,484	03-1993	Kornberg et al.	
	AI	us-5,353,804	10-1994	Kornberg et al.	
	AJ	us-5,388,588	02-1995	Nabai et al.	
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	AM	us-5,526,822	06-1996	Burbank et al.	
	AN	us-5,560,373	10-1996	De Santis	
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	AP	us-5,643,291	07-1997	Pier et al.	
	AQ	us-5,645,566	07-1997	Brenneman et al.	
	AR	us-5,649,547	09-1998	Ritchart et al.	
	AS	us-5,810,806	09-1998	Ritchart et al.	
	AT	us-5,817,033	10-1998	De Santis et al.	
	AU	us-5,902,310	05-1999	Foerster et al.	
	AV	us-5,906,599	05-1999	Kaldany	
	AW	us-5,913,857	06-1999	Ritchart et al.	
	AX	us-5,951,494	09-1999	Wang et al.	
	AY	us-5,980,469	11-1999	Burbank et al.	
	AZ	us-6,006,750	12-1999	Field	

Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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	BA	us-6,019,733	02-2000	Farascioni	
	BB	us-6,056,700	05-2000	Burney et al.	
	BC	us-6,142,955	11-2000	Farascioni	
	BD	us-6,220,248	04-2001	Voegelé et al.	
	BE	us-6,228,055	05-2001	Foerster et al.	
	BF	us-6,234,177	05-2001	Barsch	
	BG	us-6,261,243	07-2001	Burney et al.	
	BH	us-6,261,302	07-2001	Voegelé et al.	
	BI	us-6,347,241	02-2002	Burbank et al.	
	BJ	us-6,350,244	02-2002	Fisher	
	BK	us-6,379,671	04-2002	Colpitts	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ Number ⁴ Kind Code ⁵ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
	BL	EP 0 769 281 A2	04-1997			
	BM	WO 96/08208 A1	03-1996			

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached.

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